



Sen. Don Harmon

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1 AMENDMENT TO SENATE BILL 1607

2 AMENDMENT NO. _____. Amend Senate Bill 1607 as follows:

3 on page 2, by replacing lines 16 through 22 with the following:

4 "~~pavement, or soil~~ generated from construction or demolition
5 activities; provided that concrete without protruding metal
6 bars, bricks, rock, stone, or reclaimed or other asphalt
7 pavement that is generated from the construction or demolition
8 of a road may be considered "clean construction or demolition
9 debris" if it is (i) uncontaminated except for pavement
10 markings that conform to Illinois Department of Transportation
11 specifications and (ii) used as fill material in a current or
12 former quarry, mine, or other excavation in accordance with the
13 requirements of Section 22.51 of this Act and rules adopted
14 thereunder."; and

15 on page 3, line 5, by replacing "~~other~~" with "other"; and

1 on page 3, line 13, by replacing "if" with "is if"; and

2 on page 4, line 4, by replacing "soil materials" with "general
3 fill soil materials"; and

4 on page 4, by inserting the following immediately below line
5 19:

6 "(c) "Painted construction or demolition debris" means
7 broken concrete without protruding metal bars, bricks, rock,
8 stone, or reclaimed asphalt pavement generated from the
9 construction or demolition activities that contains paint but
10 is otherwise uncontaminated. However, concrete without
11 protruding metal bars, bricks, rock, stone, or reclaimed or
12 other asphalt pavement that is generated from the construction
13 or demolition of a road may be considered "clean construction
14 or demolition debris" instead of "painted construction or
15 demolition debris" if it is (i) uncontaminated except for
16 pavement markings that conform to Illinois Department of
17 Transportation specifications and (ii) used as fill material in
18 a current or former quarry, mine, or other excavation in
19 accordance with the requirements of Section 22.51 of this Act
20 and rules adopted thereunder."; and

21 on page 4, line 23, by replacing "21, and 22.51 of this Act"
22 with "21, 22.51, and 22.51a of this Act"; and

1 on page 4, lines 23 and 24, by deleting ", to the extent
2 allowed by federal law,"; and

3 on page 5, line 5, by replacing "exposure route" with "exposure
4 route value"; and

5 on page 5, lines 6 and 7, by deleting ", broken concrete,
6 bricks, or asphalt"; and

7 on page 5, line 19, by replacing "The Inhalation" with "The
8 Outdoor Inhalation"; and

9 on page 6, by replacing lines 5 and 6 with the following:

10 "(6) Indoor Inhalation Exposure Route Specific value
11 for soil, listed in Table G of 35 Ill. Adm. Code 742,
12 Appendix B."; and

13 on page 6, line 13, by replacing "total" with "totals"; and

14 on page 6, line 20, by replacing "total" with "totals"; and

15 on page 6, line 25, by replacing "The Inhalation" to "The
16 Outdoor Inhalation"; and

17 on page 7, lines 12 and 13, by replacing "Indoor Inhalation
18 exposure route values established by the Board in 35 Ill. Adm.

1 Code 742" with "The Indoor Inhalation Exposure Route value for
2 soil listed in Table G of 35 Ill. Adm. Code 742, Appendix B.";
3 and

4 on page 7, line 18, by deleting "its"; and

5 on page 22, lines 14 and 15, by replacing "or general fill
6 uncontaminated soil" with "or painted construction or
7 demolition debris or general fill ~~uncontaminated~~ soil"; and

8 on page 23, lines 1 and 2, by replacing "or general fill or
9 restricted fill ~~uncontaminated~~ soil" with "or painted
10 construction or demolition debris or general fill soil
11 ~~uncontaminated~~ soil"; and

12 on page 24, by deleting lines 7 through 12; and

13 on page 24, line 18, by replacing "January 1, 2010 ~~July 1,~~
14 ~~2008~~" with "July 1, 2008"; and

15 on page 26, line 15, by replacing "January 1, 2010 ~~July 1,~~
16 ~~2008~~" with "July 1, 2008"; and

17 on page 26, inserting the following immediately below line 25:

18 "No person shall use restricted fill soil or painted
19 construction or demolition debris as fill material in a current

1 or former quarry, mine, or other excavation (i) without a
2 permit granted by the Agency or in violation of any conditions
3 imposed by such permit, including periodic reports and full
4 access to adequate records and the inspection of facilities, as
5 may be necessary to assure compliance with this Act and with
6 Board regulations and standards adopted under this Act; or (ii)
7 in violation of any rules or standards adopted by the Board
8 under this Act.

9 Beginning July 1, 2010, owners and operators of clean
10 construction or demolition debris fill operations with a permit
11 issued prior to the effective date of this amendatory Act of
12 the 96th General Assembly must, in accordance with a schedule
13 prescribed by the Agency, seek modifications to the permit to
14 make it consistent with the requirements of this Section. The
15 Agency shall notify owners and operators in writing of the due
16 date for their application for permit modification. The due
17 date shall be no less than 90 days after the date of the
18 Agency's written notification. Owners and operators who do not
19 receive a written notification from the Agency by April 1,
20 2011, shall submit their application for modification by July
21 1, 2011. Owners and operators seeking a modification that
22 includes the use of restricted fill soil or painted
23 construction or demolition debris as fill material may submit
24 their application for modification prior to the dates set forth
25 in this paragraph or the schedule prescribed by the Agency.
26 Until a permit modification is issued, persons required to

1 obtain a permit modification must operate their clean
2 construction or demolition debris fill operation in accordance
3 with the requirements of their permit as modified by the
4 requirements of this Act and Board rules adopted hereunder;
5 provided that no person shall use restricted fill soil or
6 painted construction or demolition debris as fill material at
7 the clean construction or demolition debris fill operation
8 unless a permit modification allowing such has been issued.
9 Beginning July 1, 2012, no person required to obtain a permit
10 modification under subdivision (b) (3) of this Section shall use
11 clean construction or demolition debris as fill material in the
12 current or former quarry, mine, or other excavation for which
13 the permit modification is required without a permit
14 modification granted by the Agency that is consistent with
15 requirements of this Section."; and

16 on page 27, line 1, by replacing "CCDD ~~clean~~" with "CCDD,
17 restricted fill soil, or painted construction or demolition
18 debris ~~clean~~"; and

19 on page 27, line 10, by replacing "CCDD ~~clean~~" with "CCDD,
20 restricted fill soil, or painted construction or demolition
21 debris ~~clean~~"; and

22 on page 28, line 25, by replacing "clean" with "painted"; and

1 on page 29, line 3, by deleting "clean"; and

2 by replacing page 29, line 23, through page 30, line 8, with
3 the following:

4 "includes, but is not limited to, the following:

5 (i) covering all restricted fill soil and painted
6 construction or demolition debris with a minimum of 10 feet
7 of general fill soil, or an engineered barrier approved by
8 the Agency in a permit granted under this Section, within
9 180 days after completion of filling or as approved by the
10 Agency; and

11 (ii) for all buildings at the site on or after
12 completion of filling, the installation and maintenance of
13 building control technologies as approved by the Agency in
14 accordance with Title XVII of this Act and rules adopted
15 thereunder to prevent indoor inhalation exposures."; and

16 on page 30, line 9, by deleting "clean"; and

17 on page 30, by replacing lines 11 through 14 with the
18 following:

19 "demonstrates that the paint does not exceed the Class I Soil
20 Component of the Groundwater Ingestion Exposure Route Values
21 listed in Table A of 35 Ill. Adm. Code 742, Appendix B, as
22 amended. Chemical analysis is not"; and

1 by replacing page 30, line 17, through page 33, line 17, with
2 the following:

3 "(4) The owner or operator of the CCDD fill operation
4 must develop and implement a Receipt Control and Screening
5 Plan that includes, but is not limited to, the following:

6 (A) For all soil, either (i) a certification from
7 the owner or operator of the site from which the soil
8 was removed that the site has never been used for
9 commercial or industrial purposes and is presumed to be
10 general fill soil, or (ii) a certification from a
11 Licensed Professional Engineer that the soil is
12 restricted fill soil or general fill. Certifications
13 required under subdivision (d)(4)(A) of this Section
14 must be on forms prescribed by the Agency.

15 (B) Chemical analysis of paint on painted
16 construction or demolition debris to confirm that the
17 paint does not exceed the Class I Soil Component of the
18 groundwater Ingestion Exposure Route Values listed in
19 Table A of 35 Ill. Adm. Code 742, Appendix B, as
20 amended. Chemical analysis is not required for
21 pavement marking that conform to Illinois Department
22 of Transportation specifications.

23 (C) A visual inspection to confirm that only
24 restricted fill soil, painted construction or
25 demolition debris, clean construction or demolition
26 debris, or general fill soil is being accepted for use

1 as fill.

2 (D) Screening of the soil with a photo ionization
3 detector or a flame ionization detector, in accordance
4 with procedures approved by the Agency in the CCDD fill
5 operation permit, to confirm that the soil is
6 consistent with the definitions of restricted fill
7 soil or general fill soil and any chemical analysis
8 used to determine that the soil is restricted fill soil
9 or general fill soil.

10 (E) Confirmation that the soil was not removed from
11 a site as a part of a cleanup or removal of
12 contaminants, including, but not limited to,
13 activities conducted under the Comprehensive
14 Environmental Response, Compensation, and Liability
15 Act of 1980, as amended; as a part of a Closure or
16 Corrective Action under the Resource Conservation and
17 Recovery Act; or as a part of an Agency remediation
18 program, such as the Leaking Underground Storage Tank
19 Program or Site Remediation Program, but excluding
20 sites subject to Section 58.16 of this Act where there
21 is no presence or likely presence of a release or a
22 substantial threat of a release of a regulated
23 substance at, on, to, or from the real property.

24 (F) Documentation of all activities conducted
25 under the Receipt Control and Screening Plan.
26 Documentation of any chemical analysis must include,

1 but is not limited to, a copy of the lab analysis, on
2 letterhead of the laboratory conducting the analysis,
3 that is signed by the person that conducted the
4 analysis and by his or her supervisor or reported in
5 accordance with National Environmental Laboratory
6 Accreditation Conference standards or their
7 equivalent.

8 (5) The owner or operator of the CCDD fill operation
9 must develop and implement a Testing and Sampling Plan
10 which ensures that soil used as fill does not exceed the
11 Class I Soil Component of the Groundwater Ingestion
12 Exposure Route Values listed in Table A of 35 Ill. Adm.
13 Code 742, Appendix B, as amended. The Testing and Sampling
14 Plan must include, but is not limited to, the following:

15 (A) For every 500 cubic yards of soil used as
16 fill, a minimum of one representative soil sample
17 must be screened with an X-ray Fluorescence
18 Spectroscopy instrument in accordance with
19 procedures approved by the Agency in the CCDD fill
20 operation permit. Soil samples must be screened
21 after the soil is placed as fill at the site. If a
22 screening sample indicates that soil may exceed
23 the pH Specific Soil Remediation Objectives for
24 Inorganics and Ionizing Organics for the Soil
25 Component of the Groundwater Ingestion Route
26 (Class I Groundwater) listed in Table C of 35 Ill.

1 Adm. Code 742, Appendix B, as amended, then
2 additional representative soil samples must be
3 collected and analyzed by a laboratory for all of
4 the chemicals listed in Table A of 35 Ill. Adm.
5 Code 742, Appendix B, as amended, to determine
6 whether the soil exceeds the Class I Soil Component
7 of the Groundwater Ingestion Exposure Route Values
8 listed in Table A of 35 Ill. Adm. Code 742,
9 Appendix B, as amended. All of the soil that
10 exceeds the Class I Soil Component of the
11 Groundwater Ingestion Exposure Route Values listed
12 in Table A of 35 Ill. Adm. Code 742, Appendix B, as
13 amended, must be removed and disposed of at a
14 landfill.

15 (B) In addition to the screening and sampling
16 required under subdivision (d)(5)(A) of this
17 Section, for every 2,500 cubic yards of soil used
18 as fill a minimum of one representative soil sample
19 must be collected. Up to 5 representative samples
20 may be combined into one composite sample and the
21 composite sample must be analyzed by a laboratory
22 for all of the chemicals listed in Table A of 35
23 Ill. Adm. Code 742, Appendix B, as amended, to
24 determine whether the soil exceeds the Class I Soil
25 Component of the Groundwater Ingestion Exposure
26 Route Values listed in Table A of 35 Ill. Adm. Code

1 742, Appendix B, as amended. The laboratory's
2 analyses of samples must be performed in
3 accordance with procedures established by the
4 Agency. All soil that exceeds the Class I Soil
5 Component of the Groundwater Ingestion Exposure
6 Route Values listed in Table A of 35 Ill. Adm. Code
7 742, Appendix B, as amended, must be removed and
8 disposed at a landfill.; and

9 by replacing page 34, line 17, through page 35, line 15, with
10 the following:

11 "(f) Owners and operators of CCDD fill operations that are
12 not permitted under subsection (d) of this Section to use
13 restricted fill soil or painted construction or demolition
14 debris as fill material must do all of the following:

15 (1) Develop and implement a Receipt Control and
16 Screening Plan that includes, but is not limited to, the
17 following:

18 (A) For all soil, either (i) a certification from
19 the owner or operator of the site from which the soil
20 was removed that the site has never been used for
21 commercial or industrial purposes and is presumed to be
22 general fill soil, or (ii) a certification from a
23 Licensed Profession Engineer that the soil is general
24 fill soil. Certifications required under subdivision
25 (f)(1)(A) of this Section must be on forms prescribed

1 by the Agency.

2 (B) A visual inspection to confirm that only clean
3 construction or demolition debris or general fill soil
4 is being accepted for use as fill.

5 (C) Screening of the soil with a photo ionization
6 detector or a flame ionization detector, in accordance
7 with procedures approved by the Agency in the CCDD fill
8 operation permit, to confirm that the soil is
9 consistent with the definition of general fill soil and
10 any chemical analysis used to determine that the soil
11 is general fill soil.

12 (D) Confirmation that the soil was not removed from
13 a site as a part of a cleanup or removal of
14 contaminants, including, but not limited to,
15 activities conducted under the Comprehensive
16 Environmental Response, Compensation, and Liability
17 Act of 1980, as amended; as a part of a Closure or
18 Corrective Action under the Resource Conservation and
19 Recovery Act; or as a part of an Agency remediation
20 program, such as the Leaking Underground Storage Tank
21 Program or Site Remediation Program, but excluding
22 sites subject to Section 58.16 of this Act where there
23 is no presence or likely presence of a release or a
24 substantial threat of a release of a regulated
25 substance at, on, to, or from the real property.

26 (E) Documentation of all activities conducted

1 under the Receipt Control and Screening Plan.
2 Documentation of any chemical analysis must include,
3 but is not limited to, a copy of the lab analysis, on
4 letterhead of the laboratory conducting the analysis,
5 that is signed by the person that conducted the
6 analysis and by his or her supervisor or reported in
7 accordance with National Environmental Laboratory
8 Accreditation Conference standards or their
9 equivalent.

10 (2) Develop and implement a Testing and Sampling Plan
11 which ensures that soil used as fill does not exceed the
12 most stringent Tier 1 exposure route values adopted by the
13 Board under Title XVII of this Act. The most stringent Tier
14 1 exposure route values adopted by the Board under Title
15 XVII of this Act shall be determined in the manner set
16 forth in the definition of general fill soil under Section
17 3.508 of this Act. The Testing and Sampling Plan must
18 include, but is not limited to, all of the following:

19 (A) For every 2,500 cubic yards of soil used as
20 fill, a minimum of one representative soil sample must
21 be collected.

22 (B) Up to 5 representative samples, may be combined
23 into one composite sample, and the composite sample
24 must be analyzed by a laboratory for all of the
25 chemicals listed in Table A of 35 Ill. Adm. Code 742,
26 Appendix B, as amended.

1 (C) The laboratory's analysis of samples must be in
2 accordance with procedures established by the Agency
3 to determine whether the soil exceeds the most
4 stringent Tier 1 exposure route values adopted by the
5 Board under Title XVII of this Act.

6 (D) All soil that exceeds the most stringent Tier 1
7 exposure route values adopted by the Board under Title
8 XVII of this Act must be removed and disposed at a
9 landfill.

10 (3) A closure and post-closure care plan that includes,
11 but is not limited to, covering, within 90 days after
12 completion of the filling or as approved by the Agency, all
13 clean construction or demolition debris with a minimum of 3
14 feet of general fill soil, a road, pavement, or structure.;
15 and

16 on page 35, by replacing lines 19 and 20 with the following:

17 "years after the date of receipt of the restricted fill soil,
18 painted construction or demolition debris, clean construction
19 or demolition debris, or general fill soil, except that
20 documentation relating"; and

21 on page 36, by replacing lines 5 through 8 with the following:

22 "(h) Except at CCDD fill operations permitted under
23 subsection (d) of this Section to use restricted fill soil as
24 fill material, no person shall use soil other than general fill

1 soil as fill material at a CCDD fill operation. At CCDD fill
2 operations permitted under subsection (d) of this Section to
3 use restricted fill soil as fill material, no person shall use
4 soil other than restricted fill soil or general fill soil as
5 fill material.

6 (h-5) Except at CCDD fill operations permitted under
7 subsection (d) of this Section to use painted construction or
8 demolition debris as fill material, no person shall use
9 construction or demolition debris other than clean
10 construction or demolition debris as fill material at a CCDD
11 fill operation. At CCDD fill operations permitted under
12 subsection (d) of this Section to use painted construction or
13 demolition debris as fill material, no person shall use
14 construction or demolition debris other than painted
15 construction or demolition debris or clean construction or
16 demolition debris as fill material."; and

17 on page 36, by replacing lines 15 through 19 with the
18 following:

19 "(j) After completion of filling at a CCDD fill operation
20 where restricted fill soil has been used as fill material, no
21 person shall occupy, or cause or allow the occupancy, of any
22 building at the site unless the building control technologies
23 required under subdivision (d)(2) of this Section have been
24 installed and are maintained. No person shall perform any
25 activity that disturbs the building controls technologies

1 unless the site is entered into the Agency's Site Remediation
2 Program and the activity is approved by the Agency as
3 consistent with Title XVII of this Act and rules adopted
4 thereunder."; and

5 by deleting page 36, line 20, through page 37, line 2; and

6 on page 37, line 5, immediately after "soil", by inserting "or
7 painted construction or demolition debris"; and

8 on page 37, line 10, by deleting "any"; and

9 on page 37, line 11, by replacing "The bond amount" with "The
10 amount of the performance bond or other security"; and

11 on page 37, line 12, immediately after "cost estimate" by
12 inserting "for the performance bond or other security"; and

13 by replacing page 38, line 14, through page 40, line 11, with
14 the following:

15 "Sec. 22.51a. Soil Fill Operations. This Section applies to
16 persons using soil as fill material at a soil fill operation.

17 (a) For purposes of this Section:

18 (1) The term "soil fill operation" means a current or
19 former quarry, mine, or other excavation, other than a
20 clean construction or demolition debris fill operation as

1 defined in subdivision (e) (3) of Section 22.51 of this Act,
2 where soil is used as fill material.

3 (2) The term "other excavation" does not include holes,
4 trenches, or similar earth removal created as part of
5 normal construction, removal, or maintenance of a
6 structure, utility, or transportation infrastructure.

7 (b) No person shall:

8 (1) Use soil as fill material at a soil fill operation
9 unless the requirements of this Section are met.

10 (2) Use soil other than general fill soil as fill
11 material at a soil fill operation.

12 (3) Use construction or demolition debris, including,
13 but not limited to, painted construction or demolition
14 debris and clean construction or demolition debris, as fill
15 material at a soil fill operation.

16 (c) On and after January 1, 2010, no person shall use soil
17 as fill material at a soil fill operation unless the owner or
18 operator of the soil fill operation has notified the Agency of
19 the soil fill operation. The notice must be submitted on forms
20 and in a format prescribed by the Agency.

21 (d) Owners and operators of soil fill operations must do
22 all of the following:

23 (1) Develop and implement a Receipt Control and
24 Screening Plan that includes, but is not limited to, the
25 following:

26 (A) For all soil, either (i) a certification from

1 the owner or operator of the site from which the soil
2 was removed that the site has never been used for
3 commercial or industrial purposes and is presumed to be
4 general fill soil, or (ii) a certification from a
5 Licensed Profession Engineer that the soil is general
6 fill soil. Certifications required under this
7 subdivision (d) (1) (A) of this Section must be on forms
8 prescribed by the Agency.

9 (B) A visual inspection to confirm that only
10 general fill soil is being accepted for use as fill.

11 (C) Screening of the soil with a photo ionization
12 detector or a flame ionization detector to confirm that
13 the soil is consistent with the definition of general
14 fill soil and any chemical analysis used to determine
15 that the soil is general fill soil.

16 (D) Confirmation that the soil was not removed from
17 a site as a part of the cleanup or removal of
18 contaminants, including, but not limited to,
19 activities conducted under the Comprehensive
20 Environmental Response, Compensation, and Liability
21 Act of 1980, as amended; as a part of a Closure or
22 Corrective Action under the Resource Conservation and
23 Recovery; or as a part of an Agency remediation
24 program, such as the Leaking Underground Storage Tank
25 Program or Site Remediation Program, but excluding
26 sites subject to Section 58.16 of this Act where there

1 is no presence or likely presence of a release or a
2 substantial threat of a release of a regulated
3 substance at, on, to, or from the real property.

4 (E) Documentation of all activities conducted
5 under the Receipt Control and Screening Plan.
6 Documentation of any chemical analysis must include,
7 but is not limited to, a copy of the lab analysis, on
8 letterhead of the laboratory conducting the analysis,
9 that is signed by the person that conducted the
10 analysis and by his or her supervisor or that is
11 reported in accordance with National Environmental
12 Laboratory Accreditation Conference standards or their
13 equivalent.

14 (2) Develop and implement a Testing and Sampling Plan
15 which ensures that soil used as fill does not exceed the
16 most stringent Tier 1 exposure route values adopted by the
17 Board under Title XVII of this Act. The most stringent Tier
18 1 exposure route values adopted by the Board under Title
19 XVII of this Act shall be determined in the manner set
20 forth in the definition of general fill soil under Section
21 3.508 of this Act. The Testing and Sampling Plan must
22 include, but is not limited to, the following:

23 (A) For every 5,000 cubic yards of soil used as
24 fill, a minimum of one representative soil sample must
25 be collected.

26 (B) Up to 5 representative samples may be combined

1 into one composite sample, and the composite sample
2 must be analyzed by a laboratory for all of the
3 chemicals listed in Table A of 35 Ill. Adm. Code 742,
4 Appendix B, as amended.

5 (C) The laboratory's analyses must be performed in
6 accordance with procedures established by the Agency,
7 to determine whether the soil exceeds the most
8 stringent Tier 1 exposure route values adopted by the
9 Board under Title XVII of this Act.

10 (D) All soil that exceeds the most stringent Tier 1
11 exposure route values adopted by the Board under Title
12 XVII of this Act must be removed and disposed of at a
13 landfill.

14 (e) Owners and operators of soil fill operations must
15 maintain all documentation required under this Section until at
16 least 3 years after the date of receipt of the soil, except
17 that documentation relating to an appeal, litigation, or other
18 disputed claim must be maintained until at least 3 years after
19 the date of the final disposition of the appeal, litigation, or
20 other disputed claim. Copies of the documentation must be made
21 available to the Agency for inspection and copying during
22 normal business hours.

23 Chemical analysis conducted under this Section must be
24 conducted in accordance with the requirements of 35 Ill. Adm.
25 Code 742 and "Test Methods for Evaluating Solid Waste,
26 Physical/Chemical Methods", USEPA Publication No. SW-846, as

1 amended."; and

2 on page 40, lines 23 and 24 by replacing "clean construction or
3 demolition debris or soil" with "soil or clean construction or
4 demolition debris"; and

5 on page 40, line 25, through page 41, line 1, by replacing
6 "clean construction or demolition debris and soil" with "soil
7 and clean construction or demolition debris"; and

8 on page 41, line 4, by replacing "construction demolition" with
9 "construction or demolition"; and

10 on page 41, line 9, by replacing "Section 22.51" with "Sections
11 22.51 and 22.51a"; and

12 on page 41, line 17, by replacing "Section 22.51" with "Section
13 22.51 or 22.51a"; and

14 on page 42, line 1, by replacing "Section 22.51" with "Section
15 22.51 or 22.51a"; and

16 on page 47, by replacing lines 14 through 17 with the
17 following:

18 "issued under Section 22.51 of this Act that is found to have
19 violated any provision of Section 22.51 or the permit, or any

1 person that is found to have violated Section 22.51a of this
2 Act, shall pay a civil penalty of \$1,000 for each violation of
3 each provision,"; and

4 on page 47, by replacing line 20 with the following:

5 "\$2,000 for each violation of any provision of Section 22.51,
6 the permit, or Section 22.51a,".